and to try and determine, as a court of original jurisdiction, any civil suit pending in any court subordinate to it..... Therefore, there is no other ground to oppose this motion. It is similar to the British Indian High Court.

Mr. A. B. Salem *(Mattancheri)*: What the Advocate-General said was that after the courts have been established, powers have been given to different courts. Those are the exclusions that came, and delegations came. So, my contention is that whatever that is not delegated, is there.

Mr. M. Sivarama Menon *(Advocate-General)*: At this stage of this Bill Government propose to remain neutral. By that attitude, it should never be understood that Government have not appreciated the pros and cons of the question involved in this Bill. Government have the ruling of the Chief Court to the effect that they have not got such powers. A doubt has been expressed by Their Lordships in a later ruling. It is also relevant to note in this connection that none of the major States in South India, Travancore, Mysore and Hyderabad, have got these powers under their Specific Relief Acts. Therefore, Government have to investigate the matter further and consider deeply the implications of such a power; and Government have not had sufficient time for taking a definite decision. I am, therefore, authorised by Government to state before this House that Government will adopt an attitude of neutrality on this Bill at this stage.

And one further fact which for the purpose of further elucidation I may be allowed to state is this. The Bill as tabled in this House is fundamentally different in certain respects from the law as in force in British India. In Madras, Bombay and Calcutta, it is only within the Presidency Towns that the High Court can exercise that jurisdiction. Under this Bill, it is sought to be exercised throughout this State. Our High Court has no original criminal jurisdiction.

Motion put and carried

Secretary to the Legislative Council: The Title of the Bill is "The Cochin Specific Relief Act (Amendment) Bill".

Mr. V. J. Mathai *(Planters)*: I move that the Bill may be referred to a select committee consisting of—

The Adovcate-General as the Chairman.
,, Diwan Peishkar.
Mr. A. L. Antony.
,, M. Krishna Menon.
,, A. B. Salem.
,, M. Nanoo Menon.
and myself.

and the committee to report with 3 months.

Motion put and carried

Deputy President: The Bill may be referred to a select committee consisting of the above members. The Advocate-General will be the Chairman and the committee will report within 3 months.

Mr. V. J. Mathai *(Planters)*: I do not move for leave to introduce the Cochin Tenancy Act (Amendment) Bill, in view of the tenancy committee appointed now.

The Cochin Kuries Act (Amendment) Bill

Mr. V. J. Mathai *(Planters)*: I beg to move that the Cochin Kuries Act (Amendment) Bill be read in Council.

Mr. A. V. Moothedan *(Chalakkudi)*: I second it.

Mr. V. J. Mathai *(Planters)*: The only principle underlying this Bill is this: that while in the case of prized subscribers, that is those who have already taken their money, no labham is taken in cases of default there is no provision to exempt non-prized subscribers who have not received their money from paying a labham. The injustice is clear. It is an inequitous provision. I submit this for the acceptance of the House.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Mr. President, I have great pleasure to support the motion before the House. The vagaries of Kuri starters are well known only to

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those who have joined the kuri. With that knowledge it is that I submit that the amendment that is placed before this House is absolutely necessary; and no member who is not of a usurious turn of mind will have the courage to get up in his seat and oppose this Bill. Let me, therefore, hope that we will have the pleasant sight of this motion being supported by all the Hon'ble Members of this House.

The House rose for lunch at 1-30 p.m. and reassembled at 2-30 p.m. with the Panel Chairman, Mrs. A. N. Menon in the Chair.

Mr. A. V. Moothedan *(Chalakkudi):* Madam, I support the principle of the motion, but I think some change in wording would be necessary. Otherwise it would create consequences which are not intended by the Bill. For this purpose sections 19, 20 and 21 may be looked into now. According to the kuries now conducted there is a provision in the Vaimpu in almost all the kuries that an unprized subscriber is given three opportunities of 3 instalments and he can continue as a subscriber even though he makes default. After the 3rd instalment, his name will be removed from the subscriber's list and after that he is entitled to get only the actual amount subscribed by him to the kuri minus the three subscriptions which the foreman might have advanced out of his pocket and 12 per cent interest on that amount. The wording of the Bill is "In section 19 drop the full stop at the end, insert a comma instead and add "provided that he shall not be liable to pay any Labham or extra profit whether it is provided for in the Vaimpu or not, but only simple interest on the subscription for the defaulted instalment or instalments at nine per cent per annum". When this is added in the appropriate place the section will read:—"Every non-prized subscriber shall pay his subscription at the time and place mentioned in the Vaimpu and shall on such payment be entitled to get a receipt from the foreman and notwithstanding anything contained in the Vaimpu he shall also be entitled to 10 days of grace from the due date to pay the subscription. In default of such payment, he shall be liable to such consequences as may be provided for in the Vaimpu:

Provided that he shall not be liable to pay any labham or extra profit whether it is provided for in the Vaimpu or not, but only simple interest on the subscription for the defaulted instalment or instalments at nine per cent per annum".

Then section 20 reads as follows.—

"If a non-prized subscriber defaults to pay his contribution in accordance with section 19, the foreman may remove him from the list of subscribers and substitute any other person in his place. Every such removal and substitution shall with the dates thereof be entered in the kuri books. A written notice of such removal and substitution shall be given by the foreman to the defaulting subscriber".

Then section 21 reads as follows:—

"A defaulting non-prized subscriber shall be entitled to recover from the foreman his contributions subject to such deductions as may be provided for in the Vaimpu".

The Member wants that if a kuri subscriber makes default in case of subscription on the due date only 9 per cent interest should be recovered from him by the foreman and his default should be condoned. There will be several cases in which after joining the kuri and subscribing for three or four instalments there is a permanent default. In that case what will be the result, if that man does not want to condone this default? In such a case that subscriber will have to pay 9 per cent interest till the termination of the kuri. His name is not removed from the list of the subscribers and he will be considered as a defaulter. He is still a subscriber to the kuri and his name is on the list. In the Trichur kuries for three instalments the kuri foreman will advance the amount. If this is accepted I think the result would be all the instalments he has subscribed he will get 9 per cent interest on all the defaulted instalments.

Mr. K. S. Panicker *(Ezhuvas-Mukundapuram):* What is the practice now?

Mr. A. V. Moothedan *(Chalakkudi):* The general practice is there will be a provision in the vaimpu that if a non-prized subscriber makes default for three instalments his name will be removed from the list.

Mr. K. S. Panicker *(Ezhuvas-Mukundapuram):* They are taking only a nominal interest.

Mr. A. V. Moothedan *(Chalakkudi):* I say only regarding the wording. I think the proper place would have been section 20. Then there will be no ambiquity. Otherwise it may mean that a foreman can collect 9 per cent interest from the subscriber who does not want to condone the default. Suppose a foreman does not remove his name from the list. Then is he not a subscriber to the kuri and can he not legitimately be called a defaulter? He can be. In such a case that poor subscriber will get only that money minus 9 per cent interest till the termination of the kuri and he will get nothing. As it is according to the vaimpu only 12 per

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cent interest for 3 instalments will be collected or deducted from the amount he has actually contributed, instead of 10 or 12 of 15 instalments with 9 per cent interest which he will have to pay. The mover has intended only that on payment of 9 per cent the default should be condoned. The number of instalment is not stated here. Therefore it may go forward to any number of instalments provided his name is not removed from the list. Therefore I submit that I am wholeheartedly in favour of this Bill but the wording of it should be changed and it may be referred to a small committee consisting of the Advocate-General and hon'ble members of this House. As it is, it will cause hardship.

Mr. K. S. Panicker *(Ezhuvas-Mukundapuram):* This is a simple case. There is no necessity for a committee.

Mr. A. V. Moothedan *(Chalakkudi):* I do not want a committee, but only a drastic amendment.

Mr. M. Sivarama Menon *(Advocate-General):* Government accept the principles involved in this Bill that in the case of a non-prized subscriber he should not be subjected to the penalty in the nature of labham. That principle is already accepted by Government and in the later Kuries Bill adequate provisions were made in this behalf. The relief that is now sought by this Bill certainly lays down a good proposition. But as observed by the Hon'ble Member for Chalakkudi there are certain drastic amendments to be made and in my report to the Government I have stated that I am sure that the hon'ble member will accept the amendment and I shall take it that when we put our heads together at the time of improving the draft there will be agreemet. It has not been the intention of the mover as far as I can understand that the consequences of providing in the vaimpu that a subscriber shall totally forfeit his rights to continue as subscriber if he continuously defaults for 3 instalments, is to be superseded. The complaint of the mover is that a labham is also taken from. It does not contain any inroad so far as the condonation of the default is concerned within any particular instalment. So some drastic amendments are necessary. We can do it at a later stage.

Mr. V. J. Mathai *(Planters):* I am thankful for the suggestion made by the Hon'ble Member for Chalakkudi. I have only to say that the apprehension is not well grounded because as the Advocate-General said that difficulty may not raise. I am not going to tamper with the vaimpu or with any other provision in the vaimpu. In the vaimpus especially of Trichur kuries to which reference was made, the usual provision is that after the first instalment date if you bring the money after 10 days you will have to pay instead of interest a lump sum called "labham" even after one day, even after a few hours. If you go after the days of grace of 10 days I think you have to pay Rs. 1—8—0 as labham and then for the next instalment you have to pay not only this Rs. 1—8—0 but double that. That is the usual practice. At the third instalment, you are removed from the kuri. That power of removal is not taken away. The only portion which I want to touch is the power to take away that extraordinary penalty which is not warranted and which is against the intention of the legislature and the present trend of legislation in our country and against all equity and good conscienee. I place this for the unanimous acceptance of the House. I have only to say that there is absolutely no necessity for a select committee. If some drafting amendments have to be made we have got very competent hands here, and I will accept any amendment to effectuate the purpose of this Bill.

Motion put and carried

Secretary to the Council: The title of the Bill is "The Cochin Kuries Act (Amendment) Bill".

The Cochin Verumpattamdars Act (Amendment) Bill

Mr. L. M. Pylee *(Latin-Christians-Ernakulam):* I beg to move for leave to introduce the Cochin Verumpattamdars Act (Amendment) Bill.

Mr. Ephraim Ouseph *(Narakkal):* I second it.

Motion put and carried

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